

**UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT  
OFFICE OF THE CLERK**

Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80257  
(303) 844-3157

Elisabeth A. Shumaker  
Clerk of Court

September 02, 2009

Douglas E. Cressler  
Chief Deputy Clerk

Rockland D. Johnson  
Davis Correctional Facility  
6888 East 133rd Road  
Holdenville, OK 74848-9033

**RE: 09-5126, Johnson v. Sirmons**  
District docket: 4:04-CV-00724-JHP-PJC

Dear Mr. Johnson:

The court has docketed the appeal in this case.

Attorneys for parties must complete and file an entry of appearance form within 10 days from the date of this letter. Pro se parties must complete and file the form within 30 days from the date of this letter. *See* 10th Cir. R. 46.1. Appellant's failure to enter an appearance may cause the appeal to be dismissed. An appellee who fails to enter an appearance may not receive notice or service of orders.

The district court is reviewing the issuance of a certificate of appealability. Until the district court enters an order, proceedings on appeal are suspended. When that is done, you will receive further instructions.

Prisoners are reminded that to invoke the prison mailbox rule they must immediately file a declaration in compliance with 28 U.S.C. Section 1746 or a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid. *See* Fed. R. App. P. 4(c) and *United States v. Ceballos-Martinez*, 358 F.3d 732 (2004), *revised and superseded*, 371 F.3d 713 (10th Cir. 2004), *reh'g denied en banc*, 387 F.3d 1140 (10th Cir. 2004), *cert. denied*, 125 S.Ct. 624, (U.S. Nov 29, 2004).

The \$5.00 filing fee and \$450.00 docket fee were not paid to the district clerk when the notice of appeal was filed as required by Fed. R. App. P. 3(e). Unless the fees are paid to the district clerk or an application for leave to proceed without prepayment of fees is made to the district court, within 30 days of the date of this letter, this appeal may be dismissed without further notice. *See* 10th Cir. R. 3.3(B).

Please contact this office if you have questions.

Sincerely,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a long horizontal flourish.

Elisabeth A. Shumaker  
Clerk of the Court

cc: Diane L. Slayton

EAS/ao